

Prohibition Act and the other of the License Act, the following questions at once suggest themselves: (1) Is the distinction between Prohibition and License sufficiently marked to make it worth while to assign each to a different legislative body? Is not the distinction, to say the least, very arbitrary? (2) Is not the resemblance between Prohibition and License so very close that to assign each to a different Parliament is to create a confusion and uncertainty, which should of all things be avoided?

There can be no doubt that the distinction, if any, is exceedingly fine. The Scott Act (the typical prohibition act) provides that certain persons who have obtained a license as required by the act may sell liquor in the manner and for the purposes which the act prescribes, and that all other persons shall not sell liquor. The McCarthy Act (the specimen license act) provides that none should sell liquor except those who, having obtained a license as required by the act, might sell in the manner and for the purpose which the act prescribes. The licenses would be somewhat more numerous and their rights somewhat more extensive under the McCarthy Act than under the Scott Act. The Scott Act says: None have an unqualified right to sell liquor; ninety-nine can't sell it under any circumstances; while the "hundredth man" (see Mr. Stockton's novel) may sell subject to certain restrictions. The McCarthy Act says: None have an unqualified right to sell liquor; ninety-eight out of a hundred can't sell it under any circumstances; while the remaining two may sell it subject to certain restrictions—somewhat less severe than those imposed upon the "hundredth man" by the Scott Act. In short, the McCarthy Act looks about as much like a prohibition measure as does the Scott Act; and the Scott Act appears about as much a license law as does the McCarthy Act.

Still, using the Scott and McCarthy Acts as typical of their supposed species, it seems plain that both seek to attain the same end, and by means substantially, if not identically, the same. Their common end is the promotion of temperance and the prevention of the abuse of the liquor traffic. The means were in each case the forbidding or "prohibiting" the vast majority to sell at all, and the permitting or "licensing" a certain few to sell under specified conditions. In the one case a few more can sell than in the other. In the one case (roughly speaking) the licensee can only sell to the sick man; in the other case (also roughly speaking) he can sell to the adult and to the sober man, whether well or ill. But these are slight differences of degree, not differences of kind. Therefore the object of the two typical acts being the same, and the means (substantially the same) differing but in slight and unimportant details, it is hard to see why if the Dominion Parliament could lawfully pass the one it could not also properly pass the other. Prohibition and License are so nearly alike that it is hardly worth while to give one to the Dominion Parliament and the other to the Provinces.

The Scott and McCarthy Acts being so wonderfully alike, and yet neither being within the competence of the same legislative body, it is clear that all future acts to regulate the liquor trade (except such as may totally prohibit), will give rise to further doubt and dispute. Prohibition and License being but a hair's breadth apart, on which side of the hair does the particular act happen to be? A good case in point at once suggests itself. It has often been proposed to amend the Scott Act by licensing the sale of wine and beer in those counties where the act is or may be in force. When this subject was being discussed at the last session of Parliament, it was argued by one of the members (I think Mr. Lister), that the proposed amendment would be *ultra vires* of the Dominion Parliament, inasmuch as the Privy Council in the McCarthy Act case had declared the licensing power to belong exclusively to the Provincial Legislatures. This argument is very formidable. The Scott Act, as thus amended, would undoubtedly be a license law; a somewhat restricted one, it is true; but none the less a license law. If the judgments in the Dominion License Act case are correct, have not the Provinces the right to issue licenses for the sale of beer and wine only? If so, they would be doing precisely the same as it is proposed the Dominion Parliament should do under the beer and wine amendments. If the judgment of the Privy Council last referred to be taken as authority, the proposed amendment would be beyond the power of the Dominion Parliament as dealing with licenses,—a purely Provincial matter.

But judgments equally authoritative have declared the Scott Act to be constitutional. But the Scott Act has license clauses; it is a License act, yet it has been declared valid in its entirety. If the Dominion Parliament can pass such a license law as the Scott Act, why can it not pass such a license law as the proposed "beer and wine" amendment to the Scott Act? Yet if it have not the power to pass the McCarthy Act, why should it have the power to pass the "beer and wine" amendments?

The suggested "beer and wine" amendment is certainly very like both the Scott and McCarthy Acts. Which does it the most resemble? By what rational test could it be assigned to the one class rather than to the other? It would certainly be very hard to say, yet some test would have to be applied—some choice would have to be made.

In short, it has been held that the power to forbid *all men* to sell liquor rests with the Dominion Parliament, while the power to except from the universal prohibition—the power to forbid less than all, will belong now to the Dominion, and now to the Provinces. In what way and on what principle shall such a distinction be made? Why should there be any distinction? If the Dominion Parliament is the body which can best exercise the power of universal prohibition, and also, under certain circumstances, that of partial prohibition, why should it not have the power of partial prohibition altogether? To thus distinguish is, to say the least, unnecessary. But more than that, it is mischievous, because the distinction is so shadowy and hard to seize that it tends to doubt and confusion, where it is very desirable that all should be clear.

The British North America Act has been correctly interpreted by these various "license" and "prohibition" judgments, or it has not. If rightly interpreted, it should be so amended as to entrust so called "license" and "prohibition" legislation to the same hands. If wrongly interpreted, there is plainly all the more necessity for amendment. D. C. R.

Lennoxville, December, 1887.

A CHINESE THEATRE.

VICTORIA, the capital of British Columbia, is most beautifully situated. Although persons who desire above all things to heap up treasures which moth and dust can corrupt, and which thieves can steal, may call the place "slow," or say of it as the Kansas man said of the Eternal City, "mighty little business is done there," the presence in it of some three or four thousand almond-eyed Celestials make it particularly interesting to the visitor from Ontario. Willingly my wife and I accepted the invitation of a gentleman of Victoria to accompany him and his wife to the Chinese theatre one evening last October.

Jupiter Pluvius is a most important personage in British Columbia when the summer is over, and unfortunately we had not consulted him as to our intended movements. Heavy rain came on as we wended our way down to Chinatown beneath dripping umbrellas and across miniature torrents. The Chinese quarter in Victoria is spacious and airy compared with Chinatown in San Francisco, where some 40,000 persons are crowded into about ten blocks; yet, as we turned up the narrow lane, near the end of which stands the theatre, the heaviness of the air enabled us distinctly to perceive the ethnic smell, of which travellers in the distant East make mention. Although I could not say, as Coleridge said of Cologne,

I counted two and seventy stench,
All well defined, and several stinks,

nevertheless numerous odours, such as only a connoisseur of smells could distinguish, assailed our olfactory nerves. When the door was reached all was quietness and darkness, and an enquiry at an adjoining house drew forth from a "Johnny" the information, "No theatre to-night; too wetty—to-molly night." So homeward we had to turn. The Celestials, by the way, are rather cat-like, and dislike to wet their feet; in fact, felt slippers are their usual foot-covering.

On the next night the sound of the instruments of music told us before we reached the door of the theatre that the play was proceeding. We found that a white man was the ticket-taker, and on inquiry were told that it paid better to have such a barbarian act as the janitor, for a Celestial would be apt to suffer other Celestials—his friends—to enter without payment of the required "bits." We entered, and were greeted with delight by a small boy who appeared pleased at the advent of strangers. The general arrangement of the place was much like an ordinary theatre; the pit sloped down to the stage, the galleries ran round three sides, and were reached by stairs from near the door and from either side of the stage. There was no attempt at decoration. At the end of one of the side galleries were two or three boxes, divided from the rest of the gallery by a simple partition a couple of feet high, and furnished with plain wooden chairs instead of benches. Opposite these was the place reserved for the ladies. The stage extended all across the building, projecting somewhat in the centre. There was no scenery—there never is in Chinese theatres. On the stage were two or three chairs and a table. A recess like a chancel was in the centre, and above this was a small balcony on which a lamp was burning. Across the back hung a curtain. A few hangings, with Chinese characters, were on the wall, and on either side of the platform was a door leading into the green room.

The performance had been going on for a couple of hours when we arrived, but as it was likely to continue for four hours longer, we did not feel that we were late. As the gallery seemed to be a more aristocratic place than the pit, we went upstairs, and there a courteous Chinaman—indeed I never met one who was not courteous—insisted upon our taking the only empty box. We did so, and gazed around with great interest. We were the only white people in the building, except the doorkeeper, and yet there was no staring at us. We stared, however, at the Celestial ladies opposite us. There were about thirty of them. They wore no head-dresses, but their hair was beautifully neat and smooth. It was not plaited, but done up in a simple bob behind, fastened with an ornamental pin. They were rather restless, going out and coming back, climbing over the backs of their seats, smoking little cigarettes, and smiling and talking quietly among themselves; but not the slightest impropriety was visible. Their round faces looked happy and contented. Some of them were pretty, some ugly, some fat, some plump, some old, some young. The men kept their hats on, it being considered the correct thing for them so to do. During the performance there was a constant selling and taking of refreshments, all manner of smoking materials were in use, and the laughing and talking were incessant. These things, however, are not to be wondered at when we know that a play frequently continues night after night for weeks before the end is reached.

There are six musicians, and these were placed, not in front of the stage but in the recess behind already referred to. One sitting sideways to the front wore a white shirt for an outer garment, and played a fiddle, holding the bow *à la* a bass viol player. He had a second bow hanging over his head, at times using the one and at times the other. At his right he had a huge pair of cymbals, and between the acts he whacked one against the other lying on the table. Behind this leader—with a peep-hole into the green-room—was one with a large brass tambourine, or gong, suspended from the ceiling of the recess. To the left a musician with two little